

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-34815 of 2015 (O&M)
Date of Decision: 18.02.2016

Krishan

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Rakesh Nehra, Advocate for the petitioner.

Mr. Vivek Saini, D.A.G., Haryana.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case F.I.R. No.418 dated 19.10.2010 under sections 332, 353, 186, 307, 302, 120-B I.P.C read with sections 34 I.P.C and section 25 of Arms Act, registered at Police Station, City Sonipat, District Sonipat.

Learned counsel for the parties have been heard.

Briefly, it may be noticed that F.I.R came to be registered on the statement of S.I Daya Nand. Allegations are that one Om Parkash @ Parkash Fauji, who was facing trial in case F.I.R No.256 of 2008 under sections 148, 149, 302 I.P.C was taken for production in Sonapat Court on 19.10.2010 and having been produced while the police party was taking back aforementioned Om Parkash @ Parkash Fauji, a healthy young boy came running from the side of the main gate being armed with a 9 mm pistol and fired a shot which missed Om Parkash @ Parkash Fauji. From the another side of the court another young boy was stated to have come running, who pushed the police officials down and fired a gun shot which hit Om Parkash @ Parkash Fauji on his back. Om Parkash @ Parkash Fauji

is stated to have died on account of such fire arm injury. Allegations further are that there were two more accomplices standing on the main gate and who fled away. As per complainant the two young boys who had fired shots were apprehended on the spot and who disclosed their names as Lakshay @ Monu and Rakesh @ Raka son of Om Parkash.

During the course of hearing today, counsel has adverted to the Post Mortem Report of deceased Om parkash @ Parkash Fauji and where from it would be clear that he has died on account of one solitary fire arm injury suffered on the back.

Counsel for the petitioner has further impressed upon the Court that there would be no motive in so far as the present petitioner is concerned while Lakshay @ Monu, who was one of the young boys, who had fired with a 9 mm pistol had a clear motive inasmuch as his father and paternal uncle had been killed earlier in point of time and in such trial Om Parkash @ Parkash Fauji was facing trial as accused.

It has also gone uncontroverted that Lakshay @ Monu and Rakesh @ Raka already stand convicted in the present case by the Trial Court. In so far as the present petitioner is concerned, he was arrested subsequently on 12.1.2014 and understandably the challan qua him was presented subsequently.

In the light of the circumstances noticed herein above and keeping in view the length of incarceration already suffered by the petitioner, which is in excess of two years, he is held entitled to the benefit of bail.

Accordingly, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of C.J.M./Duty Magistrate, Sonapat.

It is, however, clarified that the observations contained in this order are confined only as regards consideration of the prayer of the petitioner for grant of regular bail and would have no bearing on the merits of the case.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

18.02.2016
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